

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jonathan Hutchinson	Team: Team # 1	CCRB Case #: 200815734	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 10/30/2008 11:20 PM	Location of Incident: Pitkin Avenue and Powell Street	Precinct: 73	18 Mo. SOL 4/30/2010	EO SOL 4/30/2010	
Date/Time CV Reported Fri, 10/31/2008 12:18 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/31/2008 12:18 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Michael Edmonds	05133	930090	BN IRT
2. POM Graham Emburey	25748	932603	073 PCT
3. Officers			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Addeo	04404	945458	BN IRT
2. POM Darren Caranella	26346	932413	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Edmonds	Abuse: Sgt. Michael Edmonds stopped the car in which § 87(2)(b) was an occupant.	
B.SGT Michael Edmonds	Abuse: Sgt. Michael Edmonds authorized PO Darren Caranella to damage § 87(2)(b)'s property.	
C.POM Graham Emburey	Abuse: PO Graham Emburey damaged § 87(2)(b)'s property.	
D.SGT Michael Edmonds	Abuse: Sgt. Michael Edmonds damaged § 87(2)(b)'s property.	
E. Officers	Force: Officers used physical force against § 87(2)(b)	

Synopsis

On October 31, 2008, § 87(2)(b) a resident of § 87(2)(b) in Brooklyn, called the CCRB to file the following complaint.

On October 30, 2008, at approximately 11:20 pm, § 87(2)(b) and his friend, § 87(2)(b) were riding in § 87(2)(b)'s vehicle on Pitkin Avenue in Brooklyn, near the intersection of Pitkin Avenue and Junius Street, when they were pulled over by a marked patrol car containing Sgt. Michael Edmonds and PO John Addeo of the Patrol Borough Brooklyn North Impact Response Team **[Allegation A]**. Sgt. Edmonds accused § 87(2)(b) of smoking marijuana and ordered him to exit the vehicle. § 87(2)(b) refused to exit the vehicle, locked his doors, and rolled up his windows. Sgt. Edmonds called for backup and numerous uniformed officers arrived at the scene, including PO Graham Emburey and PO Darren Caranella of the 73rd Precinct.

When § 87(2)(b) did not respond to the officers' instructions to exit the vehicle, Sgt. Edmonds and PO Caranella drew their asp's and indicated that they would break the window if § 87(2)(b) did not open it voluntarily. When § 87(2)(b) continued to refuse to comply with the officers' orders, PO Caranella struck § 87(2)(b)'s window with his asp, causing it to shatter **[Allegation B]**. Sgt. Edmonds, PO Caranella, and PO Emburey pulled § 87(2)(b) from the vehicle and forced him onto the ground, face-down. In the process of pulling § 87(2)(b) from his vehicle, the officers allegedly broke the seat belt on the driver's seat **[Allegations C and D]**. While § 87(2)(b) was laying face-down in the street, unidentified officers allegedly punched him repeatedly in the head and abdomen **[Allegation E]**.

When PO Caranella smashed § 87(2)(b)'s window, § 87(2)(b) immediately exited the vehicle. While § 87(2)(b) walked toward the trunk of the vehicle, PO Addeo approached him from behind and tackled him to the ground. Officers handcuffed § 87(2)(b) and § 87(2)(b) and transported them to the 73rd Precinct stationhouse. Sgt. Edmonds authorized PO Addeo to search § 87(2)(b)'s vehicle and transport it to the 73rd Precinct stationhouse. § 87(2)(b) was charged with § 87(2)(b) and § 87(2)(b) was charged with § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on November 10, 2008 (encl. 7a-7k). § 87(2)(b) is a § 87(2)(b)-year-old African-American male, standing five feet, seven inches tall, with short black hair, full facial hair, and a slight build. At the time of the interview, § 87(2)(b) resided at § 87(2)(b) in Brooklyn. § 87(2)(g)

On October 30, 2008, § 87(2)(b) was driving in his vehicle, a green four-door Honda Accord with legally tinted rear-seat windows. He left his residence on § 87(2)(b) in Brooklyn to pick up his friend, § 87(2)(b) at his home on Sutter Avenue. After § 87(2)(b) picked up § 87(2)(b) he drove back toward § 87(2)(b).

§ 87(2)(b) was driving on Pitkin Avenue toward Junius Street when he noticed a female who appeared to be familiar. § 87(2)(b) pulled over and § 87(2)(b) who was seated in the passenger seat, which was closest to the sidewalk, rolled down his window and engaged the female in conversation. The female was standing on the sidewalk and there was a vehicle parallel parked along the sidewalk, so § 87(2)(b) double-parked next to the vehicle with his caution lights activated. He rolled down his window and

beckoned the female, but when she approached the vehicle he realized that she was not the person whom he thought she was, and he apologized. She never made physical contact with his vehicle or any of the occupants, such as engaging in a handshake or any other motions. While he was double-parked, § 87(2)(b) noticed a marked police vehicle drive past him on the right. The marked police vehicle slowed down as it drove past § 87(2)(b) continued traveling to the intersection of Pitkin Avenue and Junius Street, and stopped.

§ 87(2)(b) pulled away from where he was double-parked and continued to travel through the intersection of Pitkin Avenue and Junius Street. § 87(2)(b) drove approximately one hundred or two hundred feet in front of the police vehicle and pulled over without being prompted to by the officers. § 87(2)(b) pulled into a legal parking spot and within thirty seconds, the police vehicle pulled behind him with its turret lights and siren activated. § 87(2)(b) left his car running throughout the time that he was pulled over.

Two officers exited the marked vehicle. The driver of the vehicle, identified by the investigation as Sgt. Michael Edmonds, approached the driver's side of the vehicle while the officer riding in the front passenger seat of the patrol car, identified by the investigation as PO John Addeo, both of the Patrol Borough Brooklyn North Impact Response Team, approached the passenger side of the vehicle. § 87(2)(b) described Sgt. Edmonds as a Caucasian male uniformed officer, standing approximately five feet, seven inches tall, weighing approximately two-hundred-pounds, with short black hair and a muscular build. He described PO Addeo as a Caucasian male uniformed officer with dark hair.

Sgt. Edmonds approached the vehicle and asked for § 87(2)(b)'s license and registration, which § 87(2)(b) provided. § 87(2)(b) asked why he was being pulled over but the officer did not provide an explanation. Sgt. Edmonds never went back to his vehicle to run the identification and registration nor did he note anything in regard to the documentation. He asked § 87(2)(b) what he had been doing while he was double-parked and § 87(2)(b) explained that he was talking to a woman that he thought he recognized. As Sgt. Edmonds was standing near the driver's side window he commented, "Your car smells good. Why does your car smell so fresh?" He did not know what Sgt. Edmonds meant by his comments but he and § 87(2)(b) had not been smoking marijuana or using any drugs inside of the vehicle. Sgt. Edmonds asked § 87(2)(b) to exit the vehicle.

When Sgt. Edmonds asked § 87(2)(b) to exit the vehicle, § 87(2)(b) locked the doors and rolled up the front windows because he thought that he was not required to exit his vehicle. He immediately dialed 911, in order to find out if he was legally compelled to exit his vehicle in such a circumstance. The female 911 operator could not provide him with information initially, and placed him on hold. Sgt. Edmonds picked up his radio from his shoulder area and leaned over to put over a radio transmission. Within thirty seconds, additional officers arrived at the scene.

Approximately forty seconds after § 87(2)(b) locked the doors and rolled up the windows of his vehicle, two additional officers, identified by the investigation as PO Graham Emburey and PO Darren Caranella of the 73rd Precinct, approached the driver's side of § 87(2)(b)'s vehicle. § 87(2)(b) described PO Caranella as a Caucasian male uniformed officer, standing approximately five feet, six inches tall, weighing approximately two-hundred-ten pounds, with a bald head and a muscular build. § 87(2)(b) could not describe PO Emburey, as he did not interact with him at any point. Sgt. Edmonds repeatedly said to § 87(2)(b) "Open the door, § 87(2)(b) open the door," in a tone that § 87(2)(b) described as sarcastic or teasing. PO Caranella approached the driver's side window, removed his asp from his holster, and snapped it so that it expanded. PO Caranella knocked on § 87(2)(b)'s window with his asp and continued to verbally instruct § 87(2)(b) to open the door. Sgt. Edmonds also removed his asp, which he expanded in a similar manner. § 87(2)(b) remained on the phone with 911 during this time. Sgt. Edmonds and PO Caranella continued to tap on the window with their asps. Sgt. Edmonds told § 87(2)(b) "I am going to count down § 87(2)(b)!" Sgt. Edmonds began to count backwards from five. § 87(2)(b) pulled his torso away from the window because he believed that the glass in the window might shatter.

By the time Sgt. Edmonds began counting down, there were approximately four police vehicles and approximately eight to ten uniformed officers near the intersection of Pitkin Avenue and Junius Street. There were only about three or four officers near the driver's side of § 87(2)(b)'s vehicle. Sgt. Edmonds and PO Caranella were the only officers standing directly next to the driver's side window. Either Sgt. Edmonds, PO Caranella, or both officers struck § 87(2)(b)'s window with their asps and the entire window pane broke. § 87(2)(b) did not sustain any injuries as a direct result of the glass breaking and remained on the phone with 911 while the officers were breaking his window.

Within fifteen seconds of the window shattering, either Sgt. Edmonds or PO Caranella placed their hand inside of the vehicle, pushed the unlock button, and opened the driver's door. Sgt. Edmonds, PO Caranella, and an officer who was not identified by the investigation attempted to pull § 87(2)(b) out of the vehicle by his shoulders, but their efforts were impeded by his seat belt. The officers managed to remove § 87(2)(b) from the vehicle without removing the seatbelt. § 87(2)(b)'s torso and shoulder were pulled out of the vehicle, which he believed ripped the chest strap on the seatbelt. § 87(2)(b) heard the seatbelt "pop" when he was being pulled, which indicated that the seat belt was broken. The lap belt, the lower part of the seatbelt, was still attached to the buckle, so officers pulled § 87(2)(b) upwards and out of the seat, while he maneuvered his legs and lower body to get out of the seat belt. § 87(2)(b) was removed from the vehicle and immediately placed face-first on the ground. His feet never touched the ground because he was lifted from the vehicle and his body was immediately placed on the ground.

Once he was placed on the ground, § 87(2)(b) kept his head on the pavement. He was not able to see the officers but he believed there were about four to five people standing around his body. § 87(2)(b) felt fists punching him in the face, head, and along his upper torso, but did not feel kicks to his person nor did he feel objects striking him. § 87(2)(b) was on the ground being struck on both sides of his head and torso for approximately thirty seconds to one minute. He did not observe any of the officers who struck him. § 87(2)(b) was placed in handcuffs and was not struck again after being placed in handcuffs. He stated that he was not moving or attempting to resist arrest during this time, nor was he saying anything because he was scared and in shock. He remained on the ground for less than a minute after he was handcuffed. When he stood up, he observed approximately fifteen officers in the area.

Sgt. Edmonds lifted § 87(2)(b) to his feet and placed him in a marked patrol vehicle. While § 87(2)(b) was inside the marked vehicle, he realized that his right eye was swollen and that his calves were sore, as though they had been struck with fists or an asp. § 87(2)(b) remained at the scene for approximately five minutes, and then was removed to the 73rd Precinct stationhouse for arrest processing.

§ 87(2)(b) was placed in a holding cell at the stationhouse and was later removed to the 78th Precinct stationhouse for a DUI test. Although he was not drunk or under the influence of any drug at the time, he had consumed drugs in the recent past and did not want to test positive. § 87(2)(b) refused the test because he believed refusal constituted a lesser charge than testing positive on the test. § 87(2)(b) clarified that he was not under the influence of any drug or alcohol during the incident. § 87(2)(b) was returned to the 73rd Precinct stationhouse and then went to Central Booking. He was charged with § 87(2)(b). § 87(2)(b) was released from Central Booking and he went to § 87(2)(b) to receive medical treatment. He was treated for minor bruising and lacerations. § 87(2)(b) presented photographs of his injuries and stated that the photographs were taken the day after the incident.

§ 87(2)(b) was interviewed at the CCRB on November 10, 2008 (encl. 8a-8g). § 87(2)(b) is a § 87(2)(b)-year-old Hispanic male, standing six feet, one inch tall, weighing two-hundred-eighty pounds, with black hair and brown eyes. At the time of the interview, § 87(2)(b) was § 87(2)(b).

On October 30, 2008, § 87(2)(b) was riding in the front passenger seat of § 87(2)(b)'s vehicle, a four-door green Honda Accord with tinted rear windows. § 87(2)(b) and § 87(2)(b) had been at § 87(2)(b)'s father's house, located on § 87(2)(b) in Brooklyn, for about two hours, when they decided to go to the grocery store. § 87(2)(b) drove down Pitkin Avenue, looking for a store.

§ 87(2)(b) pulled over on Pitkin Avenue between Powell Street and Junius Street because he saw an unidentified female friend. § 87(2)(b) explained that neither he nor § 87(2)(b) knew the individual by name but that she was from their neighborhood. There were vehicles parallel-parked along the street, so § 87(2)(b) pulled over alongside of the parked vehicles and activated his caution lights because he was double-parked. The female approached the passenger side of the vehicle, but did not make physical contact with § 87(2)(b) or § 87(2)(b).

While they were speaking with the unidentified female, a marked police vehicle drove past them and slowed down as it passed § 87(2)(b)'s vehicle. § 87(2)(b) noticed the marked vehicle and saw that there were two officers inside who appeared to be looking into § 87(2)(b)'s vehicle as they drove past. The marked patrol vehicle stopped at the next intersection, Pitkin Avenue and Powell Street, by double-parking their vehicle. § 87(2)(b) pulled his vehicle over approximately two hundred feet in front of the marked vehicle because he assumed that the officers were going to pull him over. § 87(2)(b) double-parked again but did not put his caution lights on at this time. Within approximately one minute, the police vehicle moved forward and an officer activated its turret lights. § 87(2)(b) and § 87(2)(b) both had their seatbelts properly holstered. They were not smoking cigarettes and there was nothing burning inside the vehicle, such as incense.

Two officers exited the marked patrol vehicle and approached § 87(2)(b)'s vehicle. The driver, Sgt. Edmonds, approached the driver's side of the vehicle, while the passenger of the marked vehicle, PO Addeo, approached the passenger side of the vehicle. § 87(2)(b)'s description of Sgt. Edmonds and PO Addeo was consistent with that provided by § 87(2)(b).

§ 87(2)(b) asked Sgt. Edmonds why he had been pulled over and Sgt. Edmonds informed him that he had noticed that they had been double-parked. Sgt. Edmonds said, "What, are you guys smoking weed tonight?" § 87(2)(b) replied in the negative. Sgt. Edmonds said, "Then why does it smell so fresh in the car?" § 87(2)(b) picked up an air freshener from the dashboard of his vehicle and explained that it made his vehicle smell good. Sgt. Edmonds asked § 87(2)(b) if he owned the vehicle and § 87(2)(b) confirmed that he did in fact own the vehicle. When Sgt. Edmonds asked § 87(2)(b) to exit the vehicle, § 87(2)(b) locked the doors to the vehicle and rolled his window up, leaving it open "a crack."

§ 87(2)(b) removed his cellular phone from his pocket, dialed 911, and lifted his phone toward his window to show the officers that he was dialing 911. As § 87(2)(b) dialed 911, Sgt. Edmonds called over his radio for backup. Sgt. Edmonds said, "Open the door, § 87(2)(b)!" § 87(2)(b) had no verbal interaction with either Sgt. Edmonds or PO Addeo. PO Addeo did not attempt to speak with § 87(2)(b) at anytime nor did he knock on his window.

Sgt. Edmonds and an additional officer who responded to his call for backup, identified by the investigation as PO Darren Caranella of the 73rd Precinct, removed their asp. § 87(2)(b) described PO Caranella as a Caucasian male uniformed officer with a bald head. Sgt. Edmonds and PO Caranella both expanded their asp by flicking them toward the ground and began to "tap" the asp on the window. As they were tapping the window, the officers kept saying, § 87(2)(b) open the window." Sgt. Edmonds told § 87(2)(b) "Open the door. I am going to count down. Five, four, three, two, one." After Sgt. Edmonds counted to the number one, PO Caranella struck the window with his nightstick and the glass shattered.

As soon as the glass shattered, § 87(2)(b) opened his door and exited the vehicle. Since the vehicle was double-parked there were cars parked next to the front passenger-side door; therefore, when § 87(2)(b) exited the vehicle, there was not much room next to him. Since there was little space next to his vehicle, there were no police officers directly outside of his door. When § 87(2)(b) exited the vehicle, two unidentified officers yelled, "Put your hands up!" and he complied. PO Addeo instructed him to move to the rear of the vehicle and he complied. As he walked to the rear of § 87(2)(b)'s vehicle, PO Addeo and an unidentified officer tackled him to the ground from the back. He was not able to see the officers as they ran towards him but they took him to the ground while he was facing the rear of the vehicle. § 87(2)(b) sustained a cut to his knee as a result of falling to the ground. An officer, who § 87(2)(b) could not see, placed a knee in his back and placed handcuffs on his wrists in a tight manner. § 87(2)(b)

§ 87(2)(b) remained on the ground for approximately one minute, during which time several officers searched the pockets in his jacket and pants. § 87(2)(b) was lifted off the ground and placed into a marked vehicle.

When § 87(2)(b) left the scene of the incident, he had an injury to his knee but was not bleeding. The officers asked him if he needed medical treatment but he refused because he was not injured. § 87(2)(b) was asked for identification once he was in custody at the stationhouse and officers discovered that he had three open warrant for § 87(2)(b) t. He was charged with the open warrants, § 87(2)(b).

Results of Investigation

Police Officer Statements

Sgt. Michael Edmonds was interviewed at the CCRB on April 16, 2009 (encl. 10a-10c). Sgt. Edmonds is a Caucasian male officer, standing five feet, ten inches tall, weighing two-hundred pounds, with brown hair and brown eyes. He is a six-year-veteran of the NYPD. On October 30, 2008, Sgt. Edmonds worked from 5:15 pm to 2:12 am on the following day, as a patrol supervisor for the Patrol Borough Brooklyn North Impact Response Team, within the confines of the 73rd Precinct. Sgt. Edmonds worked with PO John Addeo of the Patrol Borough Brooklyn North Impact Response Team. Both officers were dressed in uniform and were assigned to the marked patrol car, 2214. Sgt. Edmonds was driving the vehicle and PO Addeo was his recorder.

Sgt. Edmonds' memo book (encl. 10a-10b) noted that at 11:35 pm, he stopped a vehicle in the vicinity of Pitkin Avenue and Powell Street in Brooklyn. At 11:45 pm, he arrested two individuals in the same vicinity. Sgt. Edmonds noted in his memo book that he and PO Addeo arrested § 87(2)(b) and § 87(2)(b) and noted their dates of birth. He noted that § 87(2)(b) had refused to open his window and that the window had been broken as a result. Sgt. Edmonds noted that neither individual had any injuries or were complaining of any pain and noted that § 87(2)(b) later told him, "I smoked before I got in the car."

At approximately 11:20 pm, Sgt. Edmonds and PO Addeo were driving eastbound on Pitkin Street when they observed a vehicle, identified by the investigation as belonging to § 87(2)(b) double-parked on the street next to a housing development. As Sgt. Edmonds drove slowly past the vehicle with his windows open, he smelled a strong odor of marijuana emanating from the open windows of the vehicle. Since his vehicle was blocking traffic, Sgt. Edmonds drove to the next intersection with the intention of making a U-turn. As he was waiting for traffic to clear so that he could make a U-turn, Sgt. Edmonds observed § 87(2)(b)'s vehicle advancing into traffic behind him. When the vehicle passed Sgt. Edmonds' patrol car, he pulled behind it and activated his turret lights. When the vehicle pulled over, Sgt. Edmonds approached the driver's window and PO Addeo approached the front passenger-side window.

§ 87(2)(b) who was sitting in the driver's seat of the vehicle, rolled down his window and Sgt. Edmonds asked for his license, registration, and insurance. Immediately upon § 87(2)(b)'s rolling down his window, Sgt. Edmonds smelled marijuana emanating from his clothes and from his breath. Sgt. Edmonds observed that § 87(2)(b)'s eyes were bloodshot and that his eyelids were heavy, and thus assumed that he was under the influence of a narcotic. Upon observing § 87(2)(b)'s physical state, Sgt. Edmonds decided that he was under arrest.

Sgt. Edmonds asked § 87(2)(b) to step out of the vehicle and § 87(2)(b) responded by rolling the windows up and locking the doors. § 87(2)(b) then put his cell phone to his ear. Sgt. Edmonds knocked on the window and asked § 87(2)(b) to step out of the vehicle several times and § 87(2)(b) persisted in ignoring him. While he asked § 87(2)(b) to step out of the vehicle, Sgt. Edmonds monitored the interior of the vehicle by watching § 87(2)(b)'s hands and making sure the gearshift remained locked in park. The situation appeared to be under control and Sgt. Edmonds did not feel the need to draw his weapon at any point.

Sgt. Edmonds instructed PO Addeo to ask the other occupant of the vehicle, identified by the investigation as § 87(2)(b) to step out of the vehicle. When PO Addeo asked § 87(2)(b) to exit the

vehicle, he ignored him. Sgt. Edmonds called communications, informed the dispatcher that he had a vehicle pulled over at Pitkin Avenue and Powell Street, and requested that another unit assist him. After a short period of time, several marked patrol cars from the 73rd Precinct and approximately four or five marked patrol cars from other unidentified commands responded to the scene.

Two officers riding in a marked sector car for the 73rd Precinct, PO Graham Emburey and PO Darren Caranella of the 73rd Precinct, approached Sgt. Edmonds and were briefed on the situation. PO Emburey and PO Caranella arrived in the first patrol car to respond to Sgt. Edmonds request for additional units. PO Caranella attempted to convince § 87(2)(b) to step out of the vehicle and § 87(2)(b) ignored him. After a significant period of time, Sgt. Edmonds instructed PO Caranella to break the driver's window of § 87(2)(b)'s vehicle with his expandable baton. PO Caranella informed § 87(2)(b) that he was going to break his window and cautioned him to lean away from the window.

PO Caranella swung his baton into § 87(2)(b)'s window, causing the glass to shatter. Sgt. Edmonds reached inside the window and unlocked the driver's door. PO Caranella, PO Emburey, and Sgt. Edmonds pulled § 87(2)(b) out of his seat by his shoulders, arms, and upper body, and pushed him onto the ground, face-down. § 87(2)(b) hugged his arms to his chest and tucked his hands in his armpits, attempting to prevent the officers from applying handcuffs, but the officers eventually forced § 87(2)(b)'s arms behind his back and handcuffed him. Officers pulled § 87(2)(b) to his feet and led him to the back seat of a marked patrol car.

Sgt. Edmonds stated that, when § 87(2)(b)'s window was broken, shards of glass had fallen to the street. When § 87(2)(b) was dragged out of the vehicle by the officers, his knee was scraped on the shards of glass. After he was handcuffed, Sgt. Edmonds observed small superficial abrasions on § 87(2)(b)'s knee. Sgt. Edmonds repeatedly asked § 87(2)(b) if he wanted medical attention and he refused.

Sgt. Edmonds observed § 87(2)(b) open his door as soon as § 87(2)(b)'s window was broken. PO Addeo and another unidentified officer grabbed § 87(2)(b) by his upper arms and pushed him onto the ground, face-down. § 87(2)(b) allowed the officers to place handcuffs on his wrists. The officers pulled § 87(2)(b) to his feet by his upper arms and led him to the back seat of the marked patrol car containing § 87(2)(b). No officers struck § 87(2)(b) or § 87(2)(b) with any body part or object at any point during the arrest. Two unidentified officers transported § 87(2)(b) and § 87(2)(b) to the 73rd Precinct stationhouse.

At the stationhouse, while PO Addeo was filling out § 87(2)(b)'s pedigree card at the front desk, § 87(2)(b) was very emotional and demanded to know why he had been arrested. When Sgt. Edmonds informed § 87(2)(b) that smoking marijuana while driving is illegal, § 87(2)(b) said, "I wasn't smoking in the car, I smoked before I got into the vehicle." Sgt. Edmonds instructed two unidentified officers to transport § 87(2)(b) to the 78th Precinct stationhouse for the administration of an IDT test for narcotics.

PO John Addeo was interviewed at the CCRB on March 5, 2009 (encl. 9a-9s). On October 30, 2008, PO John Addeo worked a tour of 5:30pm to 2:05am the following day, assigned as the sergeant's operator, with Sgt. Michael Edmonds. He was working in plainclothes, and assigned to the marked patrol car, 2214.

PO Addeo's memo book (encl. 9a-9d) noted that, at 11:42pm, he stopped a vehicle for suspicion of marijuana use in the automobile. The officers told the driver and the passenger to get out of the vehicle, but they refused. The officers were forced to break the window on the driver's side of the vehicle. Additional units arrived and both occupants were arrested. At 11:50pm, the vehicle was driven back to the stationhouse for further inspection. PO Addeo performed the arrest processing paperwork for § 87(2)(b). PO Addeo was instructed transport § 87(2)(b) to the 78th Precinct stationhouse for the administration of a DUI test.

The **arrest reports** (encl. 9e-9j) prepared by PO Addeo for the arrests of § 87(2)(b) and § 87(2)(b) noted that the two individuals were arrested at 11:42 pm on October 30, 2008. § 87(2)(b)'s arrest

report stated that he was stopped for § 87(2)(b), that he refused to exit his vehicle, and that he resisted being handcuffed after he was removed from his vehicle. § 87(2)(b)'s arrest report noted that he was charged with § 87(2)(b) for refusing to open the front passenger-side door of § 87(2)(b)'s vehicle while police officers were attempting to arrest § 87(2)(b) and that he was charged with § 87(2)(b) for "flailing" his arms when officers attempted to handcuff him. The arrest report prepared for § 87(2)(b)'s arrest also noted that he was under the influence of marijuana/hashish when he was arrested and that PO Addeo used physical force to restrain him.

On October 30, 2008, PO Addeo and Sgt. Edmonds were performing patrol, and were driving northbound on Pitkin Avenue, near the intersection of Powell Street. PO Addeo had his window down and was seated in the passenger seat. PO Addeo noticed a double-parked vehicle, described as a hunter-green 1996 Honda Accord, and as they drove past the vehicle, he smelled a strong odor of marijuana. PO Addeo stated that as he drove past the vehicle he did not make any additional observations besides the scent of marijuana but, later in the interview, stated that he observed "billows" of smoke coming from the driver's side of the vehicle. He noticed the smoke as he drove past the vehicle and it appeared as though it was coming from the driver's side. PO Addeo described the smoke as billowing out of the driver's side window, with an appearance similar to cigarette smoke; PO Addeo knew the smoke was marijuana smoke because of the odor.

Sgt. Edmonds was driving the patrol car and pulled over by the intersection of Powell Street and Pitkin Avenue to watch § 87(2)(b)'s vehicle. As the vehicle moved into traffic and drove past the intersection, Sgt. Edmonds pulled into traffic and pursued the vehicle with the turret lights and sirens activated. The vehicle slowed down and stopped, then continued to drive for about ten feet before coming to a complete stop. While they were pulling § 87(2)(b)'s vehicle over, Sgt. Edmonds and PO Addeo did not put over a radio transmission for additional units to respond.

Sgt. Edmonds exited his vehicle and approached the driver's side of § 87(2)(b)'s vehicle while PO Addeo approached the passenger side of the vehicle. Upon approaching the vehicle, PO Addeo knocked on the trunk to notify the occupants that he was performing a stop of their vehicle. He stated that it is standard procedure to do so upon approaching a vehicle to make the occupants aware that officers are approaching. When PO Addeo approached the vehicle he did not make any observations to confirm his suspicion of marijuana inside of the vehicle, such as the scent, clouds of smoke, or any marijuana in plain view. The windows were tinted and the occupants kept the doors locked and windows shut, so PO Addeo was unable to see inside of the vehicle. PO Addeo stated that the windows were tinted but was not sure if they were legal because he did not have a tint reader with him. There was a streetlight above PO Addeo's head which allowed him to see into the vehicle slightly. PO Addeo was able to see that there was a person seated in the passenger seat of the vehicle and that he was "fidgeting." PO Addeo described the movements the passenger was making as "hand movements around the pocket area." The passenger never opened the window on the passenger side of the vehicle when PO Addeo approached.

PO Addeo explained that once he was on the passenger side of the vehicle, his level of fear was escalated because he did not know if the occupants of the vehicle had weapons. PO Addeo clarified that when he conducts vehicle stops there is always a level of fear that the occupants might have weapons, but in this particular instance his fear escalated when the occupants locked the doors and shut the windows. He thought they might be hiding a weapon in the vehicle when they "barricaded" themselves inside the vehicle and refused to comply with the officers' requests. PO Addeo explained that, aside from the fact that the occupants refused to open the doors or windows of the vehicle, he did not make any additional observations that led him to believe there were weapons inside the vehicle.

PO Addeo was aware that the driver of the vehicle provided his license and registration to Sgt. Edmonds, but did not overhear their conversation. Sgt. Edmonds knocked on the driver's side window and instructed the driver to open the door. PO Addeo also knocked repeatedly on the passenger side window with his hand, asking the passenger to open the door. Sgt. Edmonds put over a radio transmission for additional units to respond to the scene. While the officers waited for additional units, they continued to knock on the window and instruct the occupants to exit the vehicle. PO Addeo only used his hand to knock on the window, but he had his asp in his hand. He never used the asp during the incident. PO Addeo stated that

he did not have a clear view of Sgt. Edmonds, and could only see him over the hood of the vehicle. PO Addeo did not know if Sgt. Edmonds had an asp in his hand when the officers were knocking on the front windows.

Approximately one minute after the officers called for additional units, several marked vehicles from the 73rd Precinct responded to the scene. One officer walked to PO Addeo on the passenger side and one officer approached the driver's side of the vehicle with Sgt. Edmonds. The other units were standing close by in the street. By the time additional units arrived, PO Addeo and Sgt. Edmonds had been giving verbal instructions to the occupants of the vehicle for approximately three to four minutes. The individuals inside the vehicle persisted in refusing to comply with or acknowledge the officers' instructions. When the additional units arrived, they also instructed § 87(2)(b) and § 87(2)(b) to exit the vehicle. § 87(2)(b) and § 87(2)(b) did not react in any way to any of the officers' instructions.

Sgt. Edmonds ordered an officer, identified by the investigation as PO Caranella of the 73rd Precinct, to break the driver's window. PO Addeo never informed the occupants of the vehicle that the driver's side window was going to be broken and did not hear Sgt. Edmonds or any officers on the driver's side of the vehicle inform the occupants that they were going to break the window. PO Addeo was not able to see if any officers had an asp in their hand on the driver's side of the vehicle but he heard metal hitting the window as it shattered, which led him to believe that an officer used an asp to break the window. He never observed any officers break § 87(2)(b)'s window with an asp. PO Addeo never saw an officer raise an NYPD-issued weapon, such as an asp, above the level of the roof of the vehicle.

After the driver's window was shattered, § 87(2)(b) exited within thirty seconds, and immediately put his hands above his head and got to his knees near the passenger side door. PO Addeo placed § 87(2)(b) on the ground by pushing his torso to the ground and handcuffed him. It took approximately a minute to handcuff § 87(2)(b) because he was resisting the officers by not providing his hands to the officers. PO Addeo explained that § 87(2)(b) "locked" his arms by placing them underneath his torso, with his body weight on top of his arms. § 87(2)(b) was also moving his body from side to side, avoiding being handcuffed. PO Addeo did not need to use any force to put the male in handcuffs besides pulling his arms behind his back. § 87(2)(b) did not complain of any physical injuries and PO Addeo did not observe any physical injuries on his person.

While PO Addeo was handcuffing § 87(2)(b) he did not have a view of what was going on near the driver's side of the vehicle. PO Addeo walked the handcuffed male to a marked vehicle and an officer transported him to the 73rd Precinct stationhouse. After § 87(2)(b) was transported to the stationhouse, PO Addeo walked to § 87(2)(b)'s vehicle to perform a search. When PO Addeo walked back to the vehicle, § 87(2)(b) had already been removed from the scene. PO Addeo observed that the driver's window had been shattered.

PO Addeo performed a "field search" which he described as a "plain view" search. He explained that he was looking around the vehicle through the open doors, near the front seats of the vehicle for any weapons. He searched the passenger seat by leaning through the passenger-side door with his flashlight in his hand. PO Addeo placed his knee on the passenger seat to balance himself as he looked in the front seat area for any weapons. He never searched the rear seats, but believed that Sgt. Edmonds had previously conducted a search of the area. PO Addeo did not observe Sgt. Edmonds search the vehicle. PO Addeo never searched the glove compartment or the trunk of the vehicle, nor did he witness any other officers do so. PO Addeo was instructed to search the vehicle as per Sgt. Edmonds's instructions. PO Addeo did not find any weapons inside of the vehicle. He did not find anything inside of the vehicle which confirmed his initial suspicion that the occupants had been smoking marijuana. He was still able to smell the odor of marijuana coming from the vehicle but not from anywhere specific inside of the vehicle. PO Addeo did not find any weapons in the vehicle, nor did he find anything that led him to believe there were weapons inside of the vehicle at any point.

PO Addeo was later instructed to drive the vehicle to the stationhouse, so he performed a quick search of the front seat area. He did so because he feared that there might be glass pieces or weapons near the front seat area which could hurt him as he entered the vehicle. This was the only time he searched the driver's

side front seat area and he did not find any weapons or contraband. When he drove the vehicle back to the stationhouse he noticed that there was a strong odor of marijuana in the driver's seat.

PO Addeo stated that the vehicle was brought back to the stationhouse because there was a suspicion that the driver of the vehicle was under the influence of a narcotic or alcohol. PO Addeo explained that the vehicle needed to be taken back to the stationhouse because "there were still additional searches that needed to be conducted for anymore weapons or anymore drugs." The vehicle was brought back to the stationhouse because the driver had been arrested and the officers did not want to leave it in the street with a broken window. Sgt. Edmonds made the decision to take the vehicle back to the stationhouse.

PO Addeo saw § 87(2)(b) and § 87(2)(b) at the stationhouse because he was assigned their arrests and had to process their paperwork. PO Addeo observed that the driver of the vehicle had glassy red eyes and smelled of marijuana in the stationhouse, which further escalated his suspicion that the driver had been smoking marijuana. PO Addeo never noticed any physical injuries on § 87(2)(b) or § 87(2)(b) while at the stationhouse and never came to know whether they received medical treatment.

PO Addeo stated that § 87(2)(b) was later tested at the 78th Precinct stationhouse for marijuana. The test yielded positive results and § 87(2)(b) admitted to smoking marijuana before driving his vehicle on that evening. He was taken to the 78th Precinct stationhouse because the highway officers have the testing equipment at that location. PO Addeo did not recall why the report listed that § 87(2)(b) was under the influence of alcohol, as opposed to marijuana. § 87(2)(b) was not tested at the 78th Precinct stationhouse. Sgt. Edmonds later generated a departmental notification for his supervisors because the window of the vehicle was broken, in which he explained his reasons for breaking the window.

Medical Records

§ 87(2)(b)'s medical records (encl. 11a-11n) confirmed that he received medical treatment at the § 87(2)(b) Emergency Room on § 87(2)(b). § 87(2)(b) stated, "I was beaten up" and complained of pain to the head and neck area.

Police Documents

The **communications recording** (encl. 12a) contained a recording of the 911 call § 87(2)(b) placed while sitting inside his vehicle. On the recording, an unidentified officer can be heard saying, "I'm not fucking with you." Multiple officers can be heard instructing § 87(2)(b) to open his door, open his window, and exit his vehicle on more than fifteen occasions before the call was disconnected. The communications recording also contained the recording of radio transmissions between officers in regard to the stop of § 87(2)(b)'s vehicle. Sgt. Edmonds requested that an ESU truck respond to the vehicle stop but cancelled the request shortly after. The SPRINT for **job number X15056** (encl. 13a-13c) provided the transcription of the above radio transmissions.

The **73rd Precinct roll call** (encl. 14a-14z) for the date of the incident confirmed that PO Caranella and PO Emburey worked from 3:00 pm to 11:35 pm on the date of the incident on sector patrol within the confines of sectors J, M, and P in the 73rd Precinct, and that they were assigned to marked patrol car 4405.

The **73rd Precinct command log** (encl. 15a-15e) for the date of the incident confirmed that PO Addeo had arrested § 87(2)(b) and § 87(2)(b) at 11:46 pm on October 30, 2008 and noted their charges. PO Addeo recorded § 87(2)(b)'s condition as "upset" and noted that neither § 87(2)(b) nor § 87(2)(b) requested medical attention.

Police Officer CCRB History

Sgt. Edmonds has had two allegations of misconduct, one involving physical force and one involving the issuance of a retaliatory summons, substantiated in his six-year tenure with the NYPD, both in CCRB case number 200402328 (encl. 2a). Sgt. Edmonds was found guilty of the charges by the Deputy Commissioner of Trials and was penalized with the loss of vacation days. PO Emburey has had no allegations of misconduct substantiated during their five-year tenures with the NYPD (encl. 3a). § 87(4-b) § 87(2)(g)

Civilian CCRB and Criminal Conviction History

Neither § 87(2)(b) nor § 87(2)(b) has filed any complaints with the CCRB in the past (encl. 4a-5a).
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Notice of Claim

As of the date of this report, the New York City Comptroller's Office's Bureau of Law and Adjustment did not have any records pertaining to any Notice of Claim filed by either § 87(2)(b) or § 87(2)(b) in regards to the above incident (encl. 18a).

Conclusions and Recommendations

Officer Identification

All parties interviewed and all police documents obtained confirmed that Sgt. Edmonds and PO Addeo were the two officers riding in the police vehicle that stopped § 87(2)(b)'s vehicle. Sgt. Edmonds identified PO Caranella and PO Emburey as the two officers who were the first officers to respond to Sgt. Edmonds' request for additional officers and the 73rd Precinct roll call confirmed that the officers were on duty at the time of the incident. Sgt. Edmonds identified PO Caranella as the officer who carried out his order to break § 87(2)(b)'s window. § 87(2)(g)

Allegations Not Pled

§ 87(2)(g)

On the recording of § 87(2)(b)'s 911 call, several unidentified officers can be heard using discourteous language while ordering § 87(2)(b) to exit his vehicle. On one occasion, an officer can be heard saying, "Now you are fucked." The last word of the statement is nearly unintelligible on the tape but appears to be "fucked." On another occasion, an unidentified officer can clearly be heard telling § 87(2)(b) "I'm not fucking around." § 87(2)(b) did not allege any discourtesy on the part of any officer and was therefore unable to provide a physical description of the officer who is heard cursing on the audio recording of the 911 call. § 87(2)(g)

Undisputed Facts

All parties interviewed agreed that § 87(2)(b) was observed double-parked on Pitkin Avenue in Brooklyn, near Junius Street, for a short-period of time. It is undisputed that the marked patrol car containing Sgt. Edmonds and PO Addeo pulled over § 87(2)(b)'s vehicle on Pitkin Avenue between Junius Street and Powell Street, and that § 87(2)(b) was sitting in the front passenger seat of § 87(2)(b)'s vehicle. All parties interviewed agreed that § 87(2)(b) and § 87(2)(b) failed to open their windows, unlock their doors, or exit § 87(2)(b)'s vehicle in response to Sgt. Edmonds' repeated requests to do so. It is undisputed that PO Caranella broke the driver's window of § 87(2)(b)'s vehicle and that officers pushed § 87(2)(b) and § 87(2)(b) to the ground before handcuffing them. § 87(2)(b) confirmed that he refused to submit to a test for narcotics at the 78th Precinct stationhouse.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(b) did not admit to smoking marijuana prior to operating his vehicle, Sgt. Edmonds alleged that § 87(2)(b) later informed him that he had smoked marijuana prior to entering his vehicle. § 87(2)(g)

§ 87(2)(g)

Multiple officers instructed § 87(2)(b) to exit his vehicle approximately fifteen to twenty times before PO Caranella broke the driver's window with an asp. Although the 911 call is disconnected before § 87(2)(b)'s window is broken, both § 87(2)(b) and § 87(2)(b) stated that officers provided § 87(2)(b) with a warning that his window would be broken and that they told him exactly when the window would be broken.

§ 87(2)(g)

§ 87(2)(b) did not observe § 87(2)(b) while he was lying on the ground. § 87(2)(g)

Allegation A: Sgt. Michael Edmonds stopped the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation B: Sgt. Michael Edmonds authorized PO Darren Caranella to damage § 87(2)(b)'s property.

§ 87(2)(g)

The New York State Court of Appeals has maintained in *People v. David L.* (1982), *People v. Edwards* (1995), and *People v. Rosario* (1983), that police officers are provided with a significant degree of latitude in their determinations of safety procedures that should be followed in vehicle stops (encl. 1c-1i). Kamins interprets the Court's holding to allow that an officer may physically open any vehicle doors when the occupants do not voluntarily do so and may require the occupants of the vehicle to exit the vehicle, even when the vehicle is only stopped for a traffic violation (encl. 1a). § 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

Allegation C: Sgt. Michael Edmonds damaged § 87(2)(b) s property.

Allegation D: PO Graham Emburey damaged § 87(2)(b) s property.

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Allegation E: An officer used physical force against § 87(2)(b)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Investigator:
Jonathan Hutchinson

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: